

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

WILLIAM SPIVEY,

Plaintiff,

v.

ANDRE TAYLOR,

Defendant.

Case No. 11-cv-326-JPG-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 42) of Magistrate Judge Philip M. Frazier recommending that the Court deny as moot the motion to dismiss filed by defendant Andre Taylor (Doc. 18) on the grounds that Taylor seeks dismissal of claims that were not pled against him. Magistrate Judge Frazier notes that the only claim remaining in this case is a First Amendment claim based on Taylor’s failure to provide plaintiff William Spivey the Tanakh, the Hebrew scripture, when he asked for it.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received from Spivey a document purporting to be a response to Taylor’s motion to dismiss (Doc. 52). It was filed after Magistrate Judge Frazier issued the Report and after the deadline for objections to the Report. Nevertheless, the Court considers it an objection.

In his objection, Spivey asserts numerous laws besides the First Amendment he believes

Taylor has violated. Those alleged violations, however, are not at issue in this case. The Court defined the causes of action pled by Spivey in this case in its October 12, 2011, order (Doc. 10), and Spivey was recently denied leave to amend his complaint to add additional claims (Doc. 69).

The Court has reviewed the entire file *de novo* and finds that the Report is correct for the reasons stated therein. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 42); and
- **DENIES as moot** the motion to dismiss filed by defendant Andre Taylor (Doc. 18).

IT IS SO ORDERED.

DATED: September 11, 2012

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE